

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1287 OF 2021**

Vikas Sadashiv More

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Sachin Pawar, Advocate for Applicant.

Smt. Anamika Malhotra, A.P.P. for Respondent-State.

Mr. K.P. Kad, Investigating Officer, Manchar Police Station is present.

CORAM : A.S. GADKARI, J.**DATE : 17th September, 2021.****PC. :**

1. This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C. R. No. 139 of 2021, dated 13th March 2021 registered with Manchar Police Station, District Pune (Rural), under Sections 279, 304, 338, 427 of the Indian Penal Code and Sections 184, 134(A) and 177 of the Motor Vehicles Act, 1988.

2. Heard Mr. Pawar, learned counsel for the Applicant and Smt. Malhotra, learned A.P.P. for the State. Perused record.

3. It is the prosecution case that, the Applicant, i.e. driver of TATA 1109 Tempo bearing No. MH-14-CP-6501, drove it in rash and negligent manner and gave dash to the motorcycle of deceased Babaji S. Nighot at

about 9.45 p.m. of 12th March, 2021, on Manchar-Ghodegaon Road. Due to the said dash, Babaji S. Nighot died on the spot and was declared dead prior to admission in hospital.

4. Learned Advocate for the Applicant submitted that, as a matter of fact the deceased was in inebriated condition and he himself came and gave a dash to the Tempo of the Applicant. There was no fault of the Applicant in the present crime and it was the total negligence or either rash driving of the deceased due to which the present accident has occurred. He submitted that, the Applicant will cooperate with the investigation and therefore he may be granted pre-arrest bail.

5. At the outset, it is to be noted here that, after the said incident, wherein it is alleged that, the Applicant gave dash to the motorcycle of deceased with his Tempo, the Applicant instead of reporting the said fact to the nearest police station or police chowky fled away from the scene of offence leaving the said Babaji S.Nighot to die on street. The act of Applicant in not reporting to the police immediately after the said dash *prima facie* indicates that, he had knowledge about the consequences of the said dash allegedly given by him. It is the prosecution case that, the Applicant is absconding since the date of the said incident. As noted earlier, the conduct of the Applicant clearly indicates that, he had knowledge about the consequences of his said act.

6. In view thereof and after taking into consideration serious allegations against the Applicant, this Court is of the opinion that, the discretionary relief of pre-arrest bail can not be granted in favour of the Applicant.

Application is accordingly rejected.

[A.S. GADKARI, J.]

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